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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

UNITED STATES OF AMERICA, Plaintiff,

v.

SHARLANDS TERRACE LLC, et al., Defendants

SILVER STATE FAIR HOUSING  
COUNCIL, INC., et al., Plaintiffs,

v.

SHARLANDS TERRACE LLC, et al., Defendants.

Case No. CV-N-04-0292-LRH-VPC  
– consolidated with –  
Case No. CV-N-04-0397

UNITED STATES'  
MOTION FOR PROTECTIVE  
ORDER PERMITTING ENTRY  
ONTO PROPERTY

**EXPEDITED HEARING  
REQUESTED**

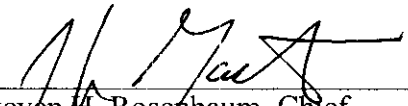
Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, Plaintiff United States hereby moves this Court to enter a protective order allowing its attorneys and agents to interview the tenants of the Sharlands Terrace Apartments. The United States has conferred with those

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1 Defendants who currently own the subject property and certifies that the parties have been unable  
2 to resolve this dispute without court action. Accordingly, the United States respectfully requests  
3 this Court enter the proposed order that is attached. The reasons for the United States' motion  
4 are more fully set forth in the accompanying memorandum.

5  
6 Respectfully submitted,

7 BRADLEY J. SCHLOZMAN  
8 Acting Assistant Attorney General  
9 Civil Rights Division

10  
11   
12 Dated: October 20, 2005

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**CERTIFICATE OF SERVICE**

I hereby certify that, on October 20, 2005, I mailed, by regular mail, a true and correct copy of Plaintiff United States' Motion for Protective Order Permitting Entry Onto Property, to the following:

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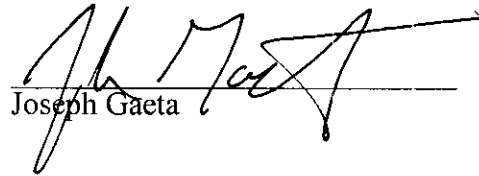
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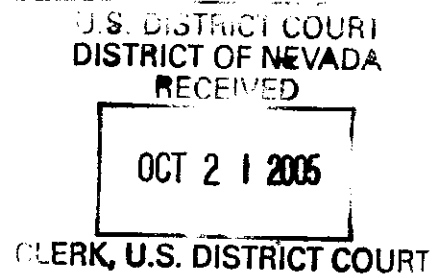
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SHARLANDS TERRACE LLC, et al., Defendants.

Case No. CV-N-04-0292-LRH-VPC  
– consolidated with –  
Case No. CV-N-04-0397

POINTS AND AUTHORITIES IN  
SUPPORT OF UNITED STATES'  
MOTION FOR PROTECTIVE  
ORDER PERMITTING ENTRY  
ONTO PROPERTY

**EXPEDITED HEARING  
REQUESTED**

I. INTRODUCTION

Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, Plaintiff United States of

1 America hereby brings this motion for a protective order to prevent the current owners of  
2 Sharlands Terrace Apartments, 6400 Sharlands Avenue, Reno, Nevada [the Subject Property]  
3 from prohibiting or otherwise restricting access to the property by the United States for the  
4 purpose of identifying and interviewing potential aggrieved persons. The United States  
5 respectfully requests this Court enter an order allowing the United States to interview tenants  
6 without supervision or other intrusion by the current owners of the Sharlands Terrace  
7 Apartments.

## 8 II. PROCEDURAL BACKGROUND

9 In June 2004, the United States filed suit against Sharlands Terrace LLC, Blatt  
10 Development, LLC, James Tibbens d/b/a San Joaquin Design Group, and Jeff Codega Planning  
11 and Design [collectively, the Design/Construction Defendants] alleging violations of the design  
12 and construction requirements of the Fair Housing Act [the FHA]. See 42 U.S.C. 3604(f)(3)(C).  
13 In short, the United States has alleged that these defendants failed to design and construct the  
14 Subject Property in a manner that is accessible to and usable by persons with disabilities. The  
15 United States has also alleged that the Design/Construction Defendants' actions constitute a  
16 pattern or practice of discrimination against persons with disabilities. This matter has been  
17 consolidated with a lawsuit filed by Paul Babiak and Silver State Fair Housing Council [the  
18 Private Plaintiffs], who have alleged comparable violations of the Fair Housing Act against the  
19 Design/Construction Defendants.

20 Both the United States and the Private Plaintiffs have named Windgate Apartments LP,  
21 1930 Wright Street LLC, 5311 College Oak Drive LLC, 3859 Annadale Lane LLC, Sharlands  
22 Terrace Apartments I, LLC and Sharlands Terrace Apartments II, LLC [the Current Owner  
23 Defendants] as defendants necessary for relief pursuant to Federal Rule of Civil Procedure 19.  
24 The Current Owner Defendants are necessary for relief because they own the Subject Property  
25 and physical retrofits will be necessary to remedy the alleged FHA violations. Neither the United  
26 States nor the Private Plaintiffs have alleged that the Current Owners are responsible for the  
27 design and construction violations of the FHA.

1 Starting in September 2005, the parties entered into mediation to resolve the United  
2 States' claims. In an effort to identify individuals who may have been harmed by the allegedly  
3 illegal design of the Subject Property, the United States has endeavored to work cooperatively  
4 with the Current Owners to obtain access to the Subject Property to interview current residents.  
5 After making a verbal request for access to the property on September 12, 2005, the United  
6 States followed up with a request in writing to counsel for the Current Owner Defendants on  
7 September 15, 2005. See Letter from Kenneth D. Johnson to Suellen Fulstone (Exhibit A).  
8 After receiving no response, the United States addressed a second request to counsel for the  
9 Current Owners on September 28, 2005, further explaining the interviewing process and  
10 proposing reasonable terms and conditions under which it would proceed. See Letter from  
11 Joseph Gaeta to Michael Flynn (Exhibit B). On October 4, 2005, Mr. Flynn responded by  
12 authorizing the United States to interview current residents only when accompanied by a monitor  
13 representing the Current Owners. See Letter from Michael Flynn to Joseph Gaeta (Exhibit C).  
14 During the status conference held before this Court on October 12, 2005, Ms. Fulstone reiterated  
15 the Current Owners' position, and the United States represented that the terms set by the Current  
16 Owners were not acceptable. The Design/Construction Defendants have not objected to the  
17 United States' request.

### 18 III. ARGUMENT

#### 19 A. The United States Has A Right and Responsibility to Enter the Subject Property To 20 Interview Potential Victims.

21 The United States is entitled to locate and identify aggrieved persons during discovery  
22 and post-complaint investigation of a FHA claim. Under Section 814(a) of the Fair Housing Act,  
23 42 U.S.C. § 3614(a), the Attorney General is authorized to file suit on behalf of the United States  
24 if he has reasonable cause to believe that (1) any defendant or group of defendants is engaged in a  
25 "pattern or practice" of discrimination made unlawful under the Act, or (2) any group of persons  
26 has been denied these rights and such denial "raises an issue of general public importance." If  
27 the United States proves a defendant's liability under § 3614, the Act clearly authorizes the court  
28



1 to award, *inter alia*, equitable relief and “monetary damages to persons aggrieved.”<sup>1</sup> 42 U.S.C. §  
 2 3614(d)(1). The House Report on the Fair Housing Act Amendments of 1988, makes this point  
 3 expressly:

4       Section 814(d) provides the types of relief a court may award in a civil action  
 5       under this Section. Existing preventive relief continues, as well as other  
 6       appropriate relief including monetary damages for the persons aggrieved. The  
 7       Committee intends that relief may be awarded to all persons affected by the  
 8       discriminatory housing practice. Allowing the court to award monetary relief to  
 9       persons aggrieved avoids later duplicative litigation as such persons bring actions  
 10       to vindicate their rights.

11 H.R. Rep. No. 711, 100th Cong., 2d Sess. at 40 (second emphasis added). Although the Report  
 12 states that “Section 814(e) allows aggrieved persons to intervene in cases brought by the  
 13 Attorney General,” *id.*, the Act does not require such intervention for an aggrieved person to be  
 14 eligible for damages. In other words, aggrieved persons need not become parties to receive  
 15 damages. Furthermore, in United States v. Balistreri, 981 F.2d 916 (7<sup>th</sup> Cir. 1992), *cert. denied*,  
 16 510 U.S. 812 (1993), the Court of Appeals rejected the argument that the United States was  
 17 limited to seeking damages for victims that it was aware of when the complaint was filed:

18       [T]he complaint was filed in response to the tests. But nothing in the complaint  
 19       supports the conclusion that the pattern or practice alleged was limited to those  
 20       acts. The complaint did not limit the pattern to any particular dates, to any  
 21       particular acts, or to acts against any particular people. The government’s  
 22       complaint notified the defendants of the claim against them; the government  
 23       properly proceeded to flesh out that claim through the discovery process . . . . The  
 24       Fair Housing Act allows courts to award damages to persons aggrieved by a  
 25       defendant’s pattern of discrimination; nothing in the act demands, or even implies,  
 26       that damages are proper only for people the government knows about at the time it  
 27       files its complaint. The term “pattern or practice” itself implies an ongoing series  
 28       of acts; it would be asking next to the impossible to demand that the government  
 29       know about every victim of that alleged pattern before filing a complaint.

30 981 F.2d at 935 (emphasis added).

31       Because the United States is not limited in seeking damages for individuals identified  
 32       after the complaint is filed, it follows that the United States must be permitted to use discovery  
 33       and post-complaint investigation to identify those individuals. As a practical matter, eligibility

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34       <sup>1</sup>An “aggrieved person” is one who “claims to have been injured by a discriminatory  
 35       housing practice” or one who believes that he or she “will be injured by a discriminatory housing  
 36       practice that is about to occur.” 42 U.S.C. § 3602(i).

1 for a damage award by such persons depends on the action of the Attorney General identifying  
 2 them on a timely basis to the defendants, and presenting the facts regarding damages to the fact-  
 3 finder or, as here, addressing those claims in a settlement.<sup>2</sup> The public interest is served by the  
 4 identification and compensation of all persons harmed by Defendants' alleged illegal conduct. In  
 5 this as in other Fair Housing Act actions, the United States must be able to contact tenants in  
 6 order to fulfill the Attorney General's unique, statutory obligations to identify and seek relief on  
 7 behalf of persons aggrieved by a pattern or practice of housing discrimination.<sup>3</sup>

8 B. The United States Has A Right to Enter the Subject Property To Interview Potential  
 9 Victims.

10 The Current Owners' position that they can limit or require monitoring of interviews of  
 11 tenants by persons with legitimate business is faulty. All tenants take their property subject to a  
 12 covenant of quiet enjoyment, which "secure[s] the lessee against the acts or hindrances of the  
 13 lessor and thus requires that the lessor refrain from voluntarily impairing the character and value  
 14 of the leased premises." Ripps v. Kline, 275 P.2d 381, 382 (Nev. 1954). This right to quiet  
 15 enjoyment includes the right of tenants to receive visitors at reasonable times for reasonable  
 16 purposes. See State v. DeCoster, 653 A.2d 891, 893 (Me. 1995); see also Seavy v. I.X.L.  
 17 Laundry Co., 108 P.2d 853, 857 (Nev. 1941) (holding that defendant landlord had a duty to  
 18 provide safe toilets to tenants' visitors and guests). Similarly, a tenant has an implied right of

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19  
 20 <sup>2</sup>Prior to the 1988 amendments, the Act permitted the Attorney General to secure only  
 21 "preventive relief" in a pattern or practice case. The courts at that time held that the terms  
 22 "preventive relief" described only equitable relief, excluding compensatory damages for  
 23 aggrieved individuals. See United States v. Long, 537 F.2d 1151, 1152 (4<sup>th</sup> Cir. 1975), cert.  
 24 denied, 429 U.S. 871 (1976) and United States v. Mitchell, 580 F.2d 789 (5<sup>th</sup> Cir. 1978). This  
 25 limitation on the Attorney General's authority, and the duplicative litigation which then became  
 necessary for individuals to secure compensatory damages, were precisely what Congress  
 repaired in the 1988 amendments, when it expanded the relief available in a pattern or practice  
 case to include "monetary damages to persons aggrieved." 42 U.S.C. §§ 3614(a), (d). See also  
United States v. Rent America Corp., 734 F. Supp. 474, 481 (S.D. Fla. 1990).

26 <sup>3</sup>The United States has sent one mailing to current residents indicating that this lawsuit is  
 27 pending and that damages may be available for aggrieved persons. Our experience has shown,  
 28 however, that such a mailing alone is often not sufficient to identify victims in cases alleging  
 design and construction violations of the FHA.

1 access to property which extends to third parties who enter for business or social purposes. See  
 2 Am.Jur.2d, Landlord and Tenant, § 629 (citing cases). The “Sharlands Terrace Rental  
 3 Agreement” used by the Current Owners does not limit a tenant’s right to receive visitors. (See  
 4 Exhibit D.)

5 The United States seeks access to Sharlands Terrace to fulfill its statutory charge to  
 6 enforce the Fair Housing Act. The Ninth Circuit has recognized the right of a law enforcement  
 7 officer to approach a resident for the purposes of asking questions in connection with his or her  
 8 law enforcement duties. United States v. Hammett, 236 F.3d 1054, 1059 (9<sup>th</sup> Cir. 2001) (state  
 9 police officer did not violate defendant’s Fourth Amendment rights by entering onto his property  
 10 for the purpose of asking defendant questions), cert. denied, 534 U.S. 866 (2001). Indeed, this  
 11 Circuit has recognized the broad premise permitting door-to-door interviews of occupants of  
 12 residential property.

13 Absent express orders from the person in possession against any possible trespass,  
 14 there is no rule of private or public conduct which makes it illegal per se, or a  
 15 condemned invasion of the person's right of privacy, for anyone openly and  
 16 peaceably, at high noon, to walk up the steps and knock on the front door of any  
 17 man's 'castle' with the honest intent of asking questions of the occupant thereof--  
 18 whether the questioner be a pollster, a salesman, or an officer of the law.

19 Davis v. United States, 327 F.2d 301, 303 (9<sup>th</sup> Cir. 1964). See also United States v. Hopper, 58  
 20 Fed. Appx. 619, 623 (6<sup>th</sup> Cir. Jan 21, 2003) (unpublished opinion) (state and federal law  
 21 enforcement officers may encroach upon the curtilage of a home for the purpose of asking  
 22 questions of the occupants), cert. denied, 540 U.S. 928 (2003); Foster v. United States, 296 F.2d  
 23 65, 66 (5<sup>th</sup> Cir. 1965) (applying principle to Special Agents of the FBI attempting to interview a  
 24 subject at his residence); McLaughlin v. Elsberry, Inc., 868 F.2d 1525, 1529-30 (11<sup>th</sup> Cir. 1987)  
 25 (Department of Labor investigators authorized by statute to interview farm laborers in enclosed  
 26 area marked with “no trespassing” signs have the right to conduct such interviews over  
 27 objections of owner).

28 No tenant at Sharlands Terrace has expressly ordered the United States not to knock on  
 his or her door. Furthermore, Sharlands Terrace is physically open to visitors. The United States  
 is not aware of any restrictions, such as a management escort, placed by the Current Owners on

1 other visitors that regularly enter the complex (e.g., tenant guests, delivery persons). But even if  
 2 some general “no trespassing” restriction was in place, Department of Justice personnel would  
 3 not be trespassers because they would be conducting business authorized by law.

4 C. The Current Owners Have No Right To Require That Monitors Accompany The United  
 5 States During Tenant Interviews.

6 The Current Owners have offered to allow access to Sharlands Terrace only if one of their  
 7 representatives accompanies the United States during its interviews. Counsel for the Current  
 8 Owners represented to this Court in the October 12, 2005 hearing that the purpose of this  
 9 requirement is to allow the Current Owners to “monitor” the interviews to protect their ongoing  
 10 “business relationship” with their tenants. Of course, neither the United States nor the Private  
 11 Plaintiffs has alleged that the Current Owners have violated the Fair Housing Act, so it is unclear  
 12 why an inquiry by the United States into the ability of a tenant to use his or her apartment would  
 13 undermine this relationship. Furthermore, nothing the United States has proposed to do would  
 14 interfere with the Current Owners’ ability to communicate directly with their tenants and their  
 15 conditions are legally impermissible for at least three reasons.

16 First, generally speaking, a party’s attorney is entitled to unobstructed access to possible  
 17 witnesses for the purpose of conducting interviews in preparation for trial. Because a trial “is a  
 18 quest for truth,” it follows that “[t]hat quest will more often be successful if both sides have an  
 19 equal opportunity to interview the persons who have the information from which the truth may  
 20 be determined.” Gregory v. United States, 369 F.2d 185, 188 (D.C. Cir. 1966), cert. denied, 396  
 21 U.S. 865 (1969). This principle was reaffirmed in Int’l Bus. Machines v. Edelstein, 526 F.2d 37  
 22 (2<sup>nd</sup> Cir. 1975), where the court, upholding counsel’s right to interview witnesses, concluded:

23 A lawyer may properly interview any witness or prospective witness for the  
 24 opposing side in any civil or criminal case without the consent of opposing  
 counsel . . . . The right to effective counsel embraces more than just the right to  
 retain counsel.

25 Id. at 44 (quoting Coppolino v. Helpern, 266 F. Supp. 930, 935-6 (S.D.N.Y. 1967)). In setting  
 26 aside rules imposed by the district court, which required the presence of opposing counsel at or a  
 27 stenographic record of any interviews conducted by either side, the court of appeals held that  
 28

1 even the trial court is limited in the restrictions that it can impose on the right of counsel to  
 2 interview possible witnesses:

3 We believe that the restrictions on interviewing set by the trial judge exceeded his  
 4 authority. They not only impair the constitutional right to effective assistance of  
 5 counsel but are contrary to time-honored and decision-honored principles, namely,  
 6 that counsel for all parties have a right to interview an adverse party's witnesses  
 7 (the witness willing) in private without the presence or consent of opposing  
 8 counsel and without a transcript being made.

9 526 F.2d at 42. This principle is further reflected in Rule 173 of the Nevada Supreme Court's  
 10 rules governing professional conduct, which prohibits an attorney, with limited exceptions not  
 11 relevant here, from "[r]equest[ing] a person other than a client to refrain from voluntarily giving  
 12 relevant information to another party. . . ."

13 In Dyer v. Schecter (United States v. Schecter), 77 F.R.D. 696 (N.D. Ohio 1977), a Fair  
 14 Housing Act case, the court specifically addressed proposed defense restrictions on interviews by  
 15 the United States of their tenants:

16 Counsel is entitled to latitude in the manner selected for integrating, developing,  
 17 and researching his client's claim. This has been especially recognized when  
 18 dealing with the question of Court interference with regard to the conduct and  
 19 confidentiality of interviews in preparing the case. See Hickman v. Taylor, 329  
 20 U.S. 495, 67 S.Ct. 385, 91 L.Ed. 451 (1947); I.B.M. v. Edelstein, 526 F.2d 37, 44  
 21 (2<sup>nd</sup> Cir. 1975); Fed.R.Civ.P. 26(b)(3). The defendants have not presented a  
 22 factual basis which would justify Court interference with plaintiff's trial  
 23 preparation so as to require the extraordinary procedure of requiring prior  
 24 approval of questions to be asked in interviews of defendants' tenants and how the  
 25 interviews should otherwise be conducted.

26 Id. at 699; see also Int'l Bus. Machines, 415 F. Supp. at 670 (in antitrust suit brought by United  
 27 States, upholding counsel's right to use FBI agents to interview defendant's witnesses in private,  
 28 without presence or consent of defense counsel).

Second, the presence of monitors would waive the common-interest privilege the United  
 States has with aggrieved persons under the FHA. Courts have recognized that when the United  
 States seeks relief on behalf of victims of alleged discrimination, the United States needs to be  
 able to communicate freely with such individuals in order to fulfill its statutory requirements. See  
Bauman v. Jacobs Suchard, Inc., 136 F.R.D. 460, 461-62 (N.D. Ill. 1990) (discussing the  
 responsibility of Equal Employment Opportunity Commission under comparable statute in

1 employment cases and finding a privilege applies to communications between the government  
2 and aggrieved persons); see also United States v. Webb, Civ. Action No. 4:00CV698JMMA, slip  
3 op. at 2 (W.D. Ark. August 1, 2001); United States v. Prestonwood Properties, Inc., Civ. Action  
4 No. 3:99-CV-0495-R, slip op. 2 (N.D. Tex. Sept. 16, 1999) (both discussing role of Attorney  
5 General in Fair Housing Act cases and finding a privilege between the Attorney General and  
6 aggrieved persons) (attached respectively as Exs. E and F). The presence of a management  
7 monitor during such an interview would waive the privilege, and chill a tenant's response to  
8 questions the United States will need to ask.<sup>4</sup>

9 Third, the presence of the monitors during interviews could amount to a compelled  
10 disclosure of a tenant's disability. A full and frank interview with an aggrieved person will  
11 require an inquiry into the nature of the tenant's disability. With the presence of a monitor, a  
12 tenant will be faced with the unfair and impermissible choice of having to disclose his disability  
13 to his current landlord if he wants to pursue a remedy for violations of his civil rights under the  
14 FHA. In the context of rental applications, the Department of Housing and Urban Development  
15 has issued regulations making it unlawful "to make an inquiry to determine whether an applicant  
16 for a dwelling ... has a handicap or to make inquiry as to the nature or severity of a handicap of  
17 such a person." 24 C.F.R. §100.202(c). The Current Owners, who are not being sued for  
18 damages by the United States under the FHA, have no legitimate reason to ascertain the nature  
19 and severity of a tenant's disability in the context of an interview to determine whether the tenant  
20 has suffered an injury due to the prior owner's design and construction of the tenant's dwelling.

21 The United States appreciates the Current Owners' interest in minimizing disruption to  
22 their tenants, and has attempted to accommodate those interests. However, it cannot assent to  
23 the monitoring requirement.

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27 <sup>4</sup>Ms. Fulstone's suggestion at the October 12, 2005, hearing that the United States need  
28 not introduce the management monitors to the tenants during interviews does nothing to avoid  
waiver of this privilege.


IV. CONCLUSION

For the reasons stated above, the United States respectfully requests that this Court grant its motion for a protective order.

Respectfully submitted,

BRADLEY J. SCHLOZMAN  
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Dated: October 20, 2005

  
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Civil Rights Division  
U.S. Department of Justice  
950 Pennsylvania Ave., NW  
Washington, D.C. 20530  
202-353-9062, 202-514-1116 (fax)

Daniel G. Bogden, United States Attorney  
Greg Addington, Assistant United States Attorney  
(NV#6875)  
100 W. Liberty Street, Ste. 600  
Reno, NV 89501  
775-784-5438, 775-784-5181 (fax)

Attorneys for Plaintiff United States of America



**CERTIFICATE OF SERVICE**

I hereby certify that, on October 20, 2005, I mailed, by regular mail, a true and correct copy of Plaintiff United States' Motion for Protective Order Permitting Entry Onto Property, to the following:

Greg Addington, Esq.  
Assistant United States Attorney  
100 W. Liberty Street, Ste. 600  
Reno, NV 89501  
775-784-5438, 775-784-5181 (fax)

Attorney for Plaintiff United States of America

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Brancart & Brancart  
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Pescadero, CA 94060  
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Attorney for the Private Plaintiffs

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Pandell Law Firm, Inc.  
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Walnut Creek, CA 94596  
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Attorney for Defendants James Tibbens  
DBA San Joaquin Design Group

Michael J. Flynn, Esq.  
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San Rafael, CA 94901  
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Attorney for Cross-Defendants  
Thomas J. Finnegan, et al.

Suellen Fulstone, Esq.  
Woodburn and Wedge  
Sierra Plaza  
6100 Neil Road, Suite 500  
Reno, NV 89511-1149  
775-688-3007, 775-688-3088 (fax)

Attorney for Defendants Windgate  
Apartments LP, 1930 Wright Street LLC,  
5311 College Oak Drive LLC, 3859 Annadale  
Lane LLC, Sharlands Terrace Apartments I, LLC  
and Sharlands Terrace Apartments II, LLC



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Laxalt & Nomura, Ltd.  
2 9600 Gateway Drive  
Reno, NV 89521  
3 775-322-1170, 775-322-1865 (fax)

4 Attorney for Defendant Jeff Codega  
Planning and Design, Inc.  
5

Brian M. McMahon, Esq.  
6 Hamilton & McMahon, Ltd.  
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7 Post Office Box 40638  
Reno, NV 89504-4638  
8 775-348-2700, 775-348-2745 (fax)

9 Attorney for Defendants  
Sharlands Terrace LLC,  
10 Blatt Development of Nevada, Inc., and  
Michael Blatt  
11

12 Mr. Gilbert Orosco,  
an individual d/b/a  
13 H & S Mechanical  
1762 Baldwin Lane  
14 Stockton, CA 95215

15 In Pro Per

16 William E. Peterson, Esq.  
Morris, Pickering & Peterson  
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Reno, NV 89511  
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19 Attorney for Cross-Defendants  
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20

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21 Lincoln, Gustafson & Cercos  
1120 Town Center Drive, Suite 260  
22 Las Vegas, NV 89134  
702-257-1997, 619-257-2203 (fax)  
23

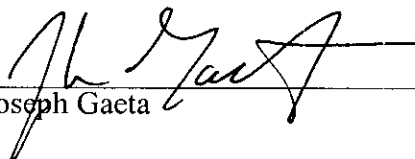
24 Attorney for Third-Party  
Defendant The Roofing Limited  
Liability Co.  
25  
26  
27  
28

1 Gene J. Stonebarger, Esq.  
2 Lindsay & Stonebarger  
3 1107 9th Street, Suite 1020  
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4 Attorney for Third-Party  
5 Defendant CJS Plumbing, Inc.

6 Gloria Sturman, Esq.  
7 Wilson, Elser, Moskowitz, Edelman & Dicker, LLP  
415 S. Sixth Street  
Las Vegas, NV 89101

8 Attorney for Third Party  
9 Defendant McKimmey Electric, Inc.

10  
11   
12 Joseph Gaeta  
13  
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SHR:KDB:KDJ:JRG:MB  
DJ 175-46-113

U.S. Department of Justice  
Civil Rights Division  
Housing and Civil Enforcement Section

U.S. Mail: 950 Pennsylvania Ave, N. W.  
Washington, DC 20530  
Overnight: 1800 G Street, N. W.  
Suite 7062  
Washington, DC 20006  
Telephone: (202) 514-4713  
Facsimile: (202) 514-1116

September 15, 2005

Suellen Fulstone, Esq.  
Woodburn and Wedge  
Sierra Plaza  
6100 Neil Road, Suite 500  
Reno, NV 89511-1149

Re: United States v. Sharlands Terrace, et al., CV-N-04-0292-LRH-RAM

Dear Ms. Fulstone:

I am writing to follow up on the request made to you by Joe Gaeta on Monday, September 12, 2005, that the United States and the private plaintiffs be authorized to canvas the tenants of Sharlands Terrace to identify potential victims. Given the size of the complex, we believe we will be able to complete this work during five consecutive days, with pairs of individuals going door-to-door.

Our goal is to canvas the complex before the next scheduled mediation on October 11, 2005. In order to meet this goal, I ask that you respond to this request by the close of business September 19, 2005. We would be willing to consider reasonable guidelines in order to minimize any disruption to your client's business. Thank you in advance for your cooperation on this matter.

Sincerely,

Steven H. Rosenbaum  
Chief

By:

A handwritten signature in cursive script, reading "Kenneth D. Johnson", is written over the typed name.

Kenneth D. Johnson  
Trial Attorney  
Housing and Civil Enforcement Section



U.S. Department of Justice  
Civil Rights Division  
Housing and Civil Enforcement Section

SHR:KDB:KDJ:JRG:MB  
DJ# 175-46-113

U.S. Mail: 950 Pennsylvania Ave, N. W.  
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Washington, DC 20006  
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September 28, 2005

**VIA FACSIMILE AND FIRST CLASS MAIL**

Michael Flynn, Esq.  
Flynn, Williams, Wester, and Hall  
1099 E Street  
San Rafael, CA 94901

Re: United States v. Sharlands Terrace, LLC, et al.

Dear Mr. Flynn:

I am writing to follow up on our conversation of September 22, 2005, during which we discussed our request for permission to conduct a door-to-door canvassing of the residents of Sharlands Terrace to identify potential aggrieved persons. We made this request orally to Ms. Fulstone on September 12, 2005, and again in writing on September 15, 2005.

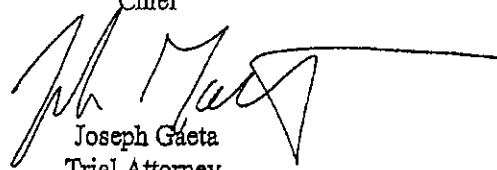
In our conversation, you requested more details as to the procedure we would follow. As we explained to Ms. Fulstone, we propose canvassing the property door-to-door with a team of two persons over a period of no more than five days. The canvassing will occur between the hours of 9:00 am and 7:00 pm, and we will announce ourselves daily to the resident manager. The purpose of the inquiry is to identify persons who may have been harmed by the alleged lack of accessibility at Sharlands Terrace. Tenants will be informed that the United States has filed a lawsuit alleging the builders and designers of the complex violated the Fair Housing Act by constructing ground-floor units that are not accessible to persons with disabilities. We will make clear that no findings of liability have been made by any court as to whether the builders or developers have violated the law. In addition, we will make clear that the United States has not alleged your clients are liable for these violations. During the canvassing, we will leave a letter with a local contact number at the door of tenants who are not home so that we may be reached to schedule a meeting while we are in the area.

Our goal is to conduct this survey before the October 11, 2005, mediation, and we want to come to an agreement with you as soon as possible on the dates of and procedures for this process. We believe that the parameters set forth in this letter are reasonable. We would appreciate a response to this request by the close of business on Friday, September 30th.

Sincerely,

Steven H. Rosenbaum  
Chief

By:

A handwritten signature in black ink, appearing to read 'J. Gaeta', with a long horizontal line extending to the right.

Joseph Gaeta  
Trial Attorney

Housing and Civil Enforcement Section

cc: Christopher Brancart, Esq.

04-05 12:03PM FROM-FLYNN WILLIAMS WESTER & HALL LLP

T-777 P.002/002 F-476

Michael J. Flynn  
Scott Williams  
Barry Wester  
Robert P. Hall, Jr.  
Brian C. Pedersen  
Jennifer E. Torbohn  
Sloan C. Bailey  
of counsel  
Frederic L. Hirschfield  
Michael W. Milward  
Matthew D. Brekhuis  
paralegals  
Holly A. M. Lewis  
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Flynn, Williams,  
Wester & Hall, LLP  
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*Sonoma office*

775 Baywood Drive, Suite 305  
Petaluma, CA 94954  
fax 707.769.2999  
707.769.2990

October 4, 2005

*Via Fax No. 202-514-1116*

Joseph Gaeta, Esq.  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington DC 20530

Re: United States v. Sharlands Terrace, LLC, et al.

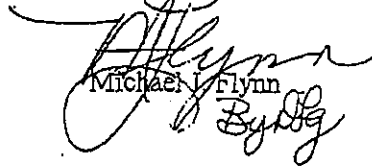

Dear Mr. Gaeta:

This is in response to your letter of September 28, 2005.

My clients are willing to allow the canvassing provided:

1. The hours for the canvassing are reduced from 10 hours to 6 hours. We suggest 10-7 p.m. as the most convenient hours.
2. Someone from the Sharlands office accompany the canvasser.

Very truly yours,

  
Michael J. Flynn  
By: 

MJF:dlg  
771-007Gaeta100405.doc

**EXHIBIT D**

*(tenants' names and identifying information redacted)*

c\_owner\_17643

**SHARLANDS TERRACE RENTAL AGREEMENT**

This agreement, entered into this 4<sup>th</sup> day of June 2004 between Sharlands Terrace LLC. (Herein referred to as "Management"), rent to resident(s) jointly and severally, Apartment #D2020 (the Premises) and parking space # 4 and/or garage # N/A located at 6400 Sharlands Avenue, Reno, NV 89523, to be used solely for the purpose of personal residence by (Name of each occupant 18 years of age and older) hereinafter referred to as "Residents".

**1. Summary of initial rents, charges and deposits:**

	Received	Payable Prior To Occupancy
Total rent for the period from 6/4/04 - 6/30/04	\$ _____	\$ 641.00
Cleaning Fee (non-refundable).....	\$ 100.00	\$ _____
Security Deposit (refundable).....	\$ 0-preferred	\$ _____
Pet Fee (non-refundable).....	\$ _____	\$ _____
Pet Fee (refundable).....	\$ _____	\$ _____
Washer/Dryer Rental.....	\$ _____	\$ _____
Garage Rental.....	\$ _____	\$ _____
Other..... Remote Deposit.....	\$ _____	\$ _____
Total.....	\$ 100.00	\$ 641.00

2. Terms: This Rental Agreement begins 7/1/04 and ends 6/30/05 for an initial term 13 months. *12/1/05 EP NH*  
The monthly rate is as follows:

Total Monthly Rent: \$740.00

**Other Charges:**

Lease Break Fee: \$740.00, and all concessions Must Be Reimbursed  
Late Charges: \$25.00 On The 6<sup>th</sup> Plus \$5.00 Per Day Diem  
Other Terms And Conditions: No Cash Excepted At Any Time

- Rent Payment:** Rent is due on the 1<sup>st</sup> day of every month and is considered past due if not paid in full by the 5<sup>th</sup> day of each month. Resident shall pay a late charge as set forth above. Late payments must be paid by cashiers check or money order. Resident shall pay \$25.00 for any dishonored check made to management and late fees. Acceptance of a check does not grant the resident credit should there be insufficient funds in the account.
- Holdover:** Under Nevada law, this rental agreement and any changes agreed to in writing will remain in effect on a monthly basis after the initial term. A 30-day written notice to vacate must be issued by the resident prior to vacating, anytime during or after the initial term of this agreement. If improper notice or no notice to vacate is given by resident, resident is liable for prorated rent until lawful termination, and management may deduct this from the security deposit on hand, or collect any Monies due by other lawful means.
- Utilities:** Management will pay for sewer, water, garbage removal and expanded basic cable, resident is responsible for electricity and gas and must have put in their name upon move in date. Resident shall not allow electricity to be disconnected by any means (including nonpayment of bill) until the end of the lease term or renewal period.
- Security Deposit:** Resident pays herewith as a security deposit the above stated sum. Upon lawful termination by either party for any reason, the management may legally claim of the security deposit only such amounts as are reasonable and necessary to remedy defaults in the payment of rent, to repair damages to the premises caused by the resident other than normal wear and tear and to pay reasonable costs of cleaning in excess of the non-refundable cleaning fee set out above. The excess portion of the security deposit, which is not used as set forth herein, shall be refunded along with an itemized statement of charges within thirty (30) days of lawful termination of tenancy. The security deposit may be used for unpaid rent if the tenancy period set forth in Paragraph two (2) is not met.
- Early Termination:** Resident may terminate this Lease prior to the last day of the Lease Term, if and only if: (I) Resident gives Management written 30 day notice of such early termination, verbal notice shall not be considered effective notice. (II) Resident is not in default under the lease at the same time. (III) Early termination notice is accompanied by payment of the lease break fee in the amount set forth in Paragraph 2, plus repayment of any and all rent or move-in concession credited to the resident, plus payment of all rent due through and including the Early Termination date.



C\_OWNER\_1/644

8. **Collection:** If resident owes more money than has been held in his account, the management, after issuing a proper itemized statement noting amount owed, may pursue at his option any legal means to collection. All costs of collection shall be borne by resident. (See Paragraph 6).
9. **Subleasing and guests:** Neither subletting of the Premises nor assignment of this Lease by Resident will be permitted under any circumstances.
10. **Pets:** All animals or pets must be pre-approved by Management. Upon approval, Resident and Management must execute a pet addendum. If resident obtains a pet without management approval, management may demand an additional deposit for the pet and increase the rent. If the pet does not fall into the allowed guidelines, management may take legal for breach of contract.
11. **Parking & Vehicles:** Resident agrees to park in their assigned parking space or garage. Guests must park in non-resident reserved areas. If management does not assign a parking space, parking shall be on a first come basis. All vehicles must be licensed and operable at all times. Resident shall not keep in or about said premises boats, campers, trailers, mobile homes or other recreational vehicles without separate written agreement by management. Management at the owner's expense may tow unauthorized vehicles. Management is not responsible for damage or theft while vehicles are parked on the premises.
12. **Rent Incentive:** Management agrees to reduce rent by n/a with the express understanding that in the event that resident does not fully perform under the terms and conditions of the lease, resident agrees to return to Management immediately upon demand any and all rent incentives herein accepted by Resident or reimburse Management full market value for said incentives. (Resident's Initials \_\_\_\_\_).
13. **Maintenance, repairs or alteration and inventory:** Resident acknowledges that the premises are in good order and repair, unless otherwise indicated herein. Management will give resident written inventory of furniture and furnishings on the premises and resident shall be deemed to have possession of all said furniture and furnishings in good condition and repair unless he object thereto in writing within five (5) days after receipt of such inventory. Resident shall, at his own expense, and at all times maintain the premises in a clean and sanitary manner, including all equipment, appliances, furniture and furnishings therein and shall surrender the same at termination hereof, in as good a condition as received normal wear expected, resident shall not rekey or change locks, paint, paper or otherwise redecorate or make alterations to the premises without the prior written consent of management. Resident shall keep the grounds clear of rubbish that are considered exclusively for the use of the resident. Resident shall not commit any waste upon said premises or any nuisance or act, which may disturb the quiet enjoyment of any resident in the building. Resident agrees to pay for all repairs, replacements and maintenance caused by his misconduct, failure to report or negligence and this will be paid no later than the monthly payment date next following such repairs. Tenant understands and acknowledges that penetration of water or other moisture into the premises can activate and/or promote the growth of toxic mold and other related species. Tenant further understands and acknowledges that toxic mold and/or its related species can cause health problems. Tenant shall immediately notify Landlord of any damage, defect or natural wear pertaining to the premises, including but not limited to the plumbing, roofing, wiring or other workmanship on the premises, and particularly any condition that involves the leakage or penetration of water in or about the leased premises. Tenant is responsible and agrees to be liable for any and all damages caused by failing to notify Landlord of water or moisture caused by rain or other moisture from leaving windows open, and/or by overflow of water, or stoppage of waste pipes, or any other damages to the premises due to the acts or neglect of Tenant or guest of the Tenant. In the event of an emergency, Landlord may enter without 24 hours notice to tenant.
14. **Right of Entry & Inspection:** Management may enter the premise at all reasonable times and for all reasonable purposes and for at least one (1) maintenance inspection each month. In accordance with NRS requirements, management agrees to give resident a twenty-four (24) hour notification for entry, except in case of emergency.
15. **Defects, damage:** Resident shall report any defect or natural wear pertaining to plumbing, wiring or workmanship on the premise at once. Resident is responsible for and agrees to pay for, damages to appliances, carpeting or the building in general that is due to the acts of the resident or guest of the resident. Parents are responsible for their children's actions, the parents will pay for Property destruction by children.
16. **Termination:** Upon completion of the initial term set forth in paragraph 2, this agreement and the tenancy hereby granted may be terminated at any time by either party hereto giving to the other party a 30 day written notice to vacate said premises or as notice or no notice to vacate is given by resident prior to vacating, resident is liable for prorated rent until lawful termination and management may deduct such rent from the security deposit or proceed to collect such rent by any lawful means. In the event of court actions, reasonable attorney's fees may be awarded to the prevailing party and the losing party hereby obligates himself to pay same. Upon termination of the tenancy, the resident shall surrender and vacate the premise, including removal of any and all property of the resident's property. Before departure, the resident shall return keys and personal property listed on the inventory to management in good, clean and sanitary condition, normal wear excepted.

17. **Policies:** Resident agrees to abide by any and all rules and policies including, but not limited to, rules with respect to noise, odors, disposal of refuse, pets, parking, and use of common areas. Further, resident agrees to abide by all amendments and additions to said rules after due notice of such amendments or additions. Resident at the time of execution of the agreement acknowledges that he has notice of all existing rules and regulations pertaining to the premises, (Resident's Initials MP).
18. **Breach of contract:** Failure of resident to pay rent or other charges promptly when due or to comply with any other term or condition hereto or any rules or policies of which he has notice as required by law or to comply with any applicable provisions of the laws of the State of Nevada, shall at the option of the management empower them to terminate this tenancy upon giving proper notice as set forth in the Residential Landlord and Tenant Act contained in Chapter 118A of the Nevada Revised Statutes.
19. **Waiver of terms:** Any failure by management to enforce the terms of this agreement shall not constitute a waiver of said terms by management. Acceptance of rent due by the management after any default shall not be construed to waive any rights of management or affect any notice or legal action theretofore given or commenced.
20. **Swipe Card/:** Resident acknowledges receipt of 2 swipe card(s) and that each card shall remain the property of the Management. If the card is lost, damaged or stolen, resident agrees to pay \$5.00 for each replacement card.
21. **Garage Remotes:** Resident acknowledges receipt of N/A garage remote(s) and that each remote shall remain the property of the Management. If the remote is lost, damaged or stolen, resident agrees to pay \$50.00 for each replacement remote.
22. **Liability:** Management shall not be liable for any damage or injury to resident, or any other person or any other property, occurring on the premise or any part thereof, or in common area thereof, unless such liability is based on the negligent act or omission of management, his agent or employee, and resident agrees to hold management harmless from any claims for damages if caused by the negligent acts or omissions of the resident or his guests. Resident shall be responsible for damages caused by his misconduct or negligence and that of his family, invitee or guests.
23. **Insurance:** It is advised that resident obtain renter's insurance as management or his agent's insurance cannot cover resident's property.
24. **Agent:** The name and address of the person authorized to act on behalf of the owner for the purpose of service of process and receiving notices and requests is as follows: Sharlands Terrace Apartments 6400 Sharlands Ave., Reno, NV 89523. The name and telephone number of the manager of the premises is Andrea Casti, 775-787-7824.
25. **Contract:** The above agreement is accepted and agreed to jointly and severally. The undersigned have read the above contract and understand and agree to all the provisions thereof and further acknowledge that they have received a copy of said contract.

Resident(s)

Management (Authorized Agent of the Owner)

By: [Signature]Title: Property AgentDate: 6/3/04

EQUAL HOUSING OPPORTUNITY

Case 4:00-cv-00698-JMM Document 16 Filed 08/01/2001 Page 1 of 5

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION

FILED

U.S. DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS

AUG - 1 2001

PLAINTIFF

UNITED STATES OF AMERICA

V.

4:00CV698JMM

JAMES "JIM" WEBB, ET AL

DEFENDANTS

**ORDER DENYING DEFENDANTS' MOTION TO COMPEL TESTIMONY**

During a deposition of Nathaniel and Diane Black held on May 22, 2001, Defendants' counsel asked Mr. and Mrs. Black to answer questions about specific conversations with the Government's attorneys in this case. The Government's attorneys, who were present at the deposition, instructed Mr. and Mrs. Black not to answer the questions based upon the common interest in litigation privilege. Defendants ask the Court to order Nathaniel and Diane Black to respond to those questions. Defendants contend that because the Blacks are not parties to the litigation and they are not represented by counsel, there is no valid common interest in litigation privilege.

In *U.S. v. Prestonwood Properties, Inc.*, et al, No. 3:99CV0495R, the United States District Court for the Northern District of Texas was faced with a similar issue. In that case, the United States brought suit under the Fair Housing Act on behalf of persons who had allegedly been victims of housing discrimination. The Government asked the court to issue a protective order barring the defendants' inquiry into communications between counsel for the United States and the complainants based upon the common interest in litigation privilege. The court granted the Government's motion. The court stated,

The Court finds that there is a common interest in litigation privilege that protects communications between counsel for the United States and HUD complainants and other alleged aggrieved persons in matters such as this where the United

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Case 4:00-cv-00698-JMM Document 16 Filed 08/01/2001 Page 2 of 5

States acts in its capacity to protect the interest of HUD complainants and the aggrieved persons to vindicate alleged violations of the Fair Housing Act.

*U.S. v. Prestonwood Properties, Inc., et al*, No. 3:99CV0495R, slip op. at 2 (N.D. Tex. filed Sept. 16, 1999). The court further explained that it is the Government's burden to establish that a particular communication is privileged.

Moreover, in *Bauman v. Jacobs Suchard, Inc.*, 136 F.R.D. 460 (N.D. Ill. 1990), the EEOC was granted leave to intervene as a plaintiff in an employment discrimination action brought under the ADEA. During discovery, the defendant asked the EEOC to produce all questionnaires it had received from Jacobs Suchard employees who were not plaintiffs in the lawsuit. The EEOC objected based upon the attorney-client and work product privilege. The court stated,

While there does not appear to be any formal attorney-client relationship, the EEOC, through its attorneys, are essentially acting as de facto counsel for the employees. There is no sound reason why employers in such cases should have available the protection of the attorney-client privilege whereas employees would not. Communications between the EEOC attorneys and the employees represented in ADEA cases brought by the EEOC are privileged.

*Bauman*, 136 F.R.D. at 461-62.

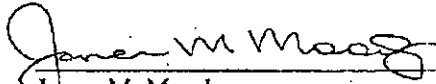
The Court agrees with the rationale explained in the cases cited by the Government upholding a privilege which protects communications between a governmental agency and persons on whose behalf the governmental agency brings suit. Although there is no technical attorney-client relationship between the Blacks and the Government in this case, counsel for the Government is pursuing this case to enforce the rights of Mr. and Mrs. Black under the Fair Housing Act. Congress set up the Act to encourage and enable persons, who have been victims of discrimination, to pursue justice when those victimized persons do not have the financial

Case 4:00-cv-00698-JMM Document 16 Filed 08/01/2001 Page 3 of 5

resources to litigate such a claim. It does not follow that persons who choose to utilize this Act give up their right to confidential communications with the attorney representing their interests.

After review of the particular questions presented to the Blacks during the May 22, 2001 deposition and the Government's objections, the Court finds that the Government's objections should be sustained. The substance and content of these communications between the Government's counsel and the Blacks is protected by the common interest in litigation privilege. Accordingly, defendants' motion to compel testimony (Docket # 10) is denied.

IT IS SO ORDERED this 31<sup>st</sup> day of July 2001.

  
James M. Moody  
United States District Judge

THIS DOCUMENT ENTERED ON  
DOCKET SHEET IN COMPLIANCE  
WITH RULE 58 AND/OR 79(b) FRCP  
ON 8/1/01 BY ah

Case 4:00-cv-00698-JMM Document 16 Filed 08/01/2001 Page 4 of 5

ah

UNITED STATES DISTRICT COURT  
Eastern District of Arkansas  
U.S. Court House  
600 West Capitol, Suite 402  
Little Rock, Arkansas 72201-3325

August 1, 2001

\* \* MAILING CERTIFICATE OF CLERK \* \*

Re: 4:00-cv-00698.

True and correct copies of the attached were mailed by the clerk to the following:

Philip E. Kaplan, Esq.  
Kaplan, Brewer & Maxey, P.A.  
Metro Centre Mall  
415 Main Street  
Little Rock, AR 72201-3801

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U. S. Department of Justice  
Housing & Enforcement-Civil Rights Div  
Post Office Box 65998  
Washington, DC 20035-5998

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Housing & Enforcement-Civil Rights Div  
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Washington, DC 20035-5998

Rebecca B. Bond, Esq.  
U. S. Department of Justice  
Housing & Enforcement-Civil Rights Div  
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Stacey Elise McCord, Esq.  
U. S. Attorney's Office  
Eastern District of Arkansas  
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Little Rock, AR 72203-1229

Bill Lann Lee, Esq.  
U. S. Department of Justice  
Civil Rights Division  
Post Office Box 65968

Case 4:00-cv-00698-JMM Document 16 Filed 08/01/2001 Page 5 of 5

washington, DC 20035-5968

press

James W. McCormack, Clerk

A Hensley

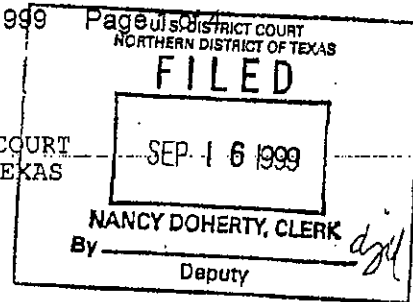
Date: 8/1/01

BY: \_\_\_\_\_

Case 3:99-cv-00495 Document 53 Filed 09/16/1999 Page 15 of 24

ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION



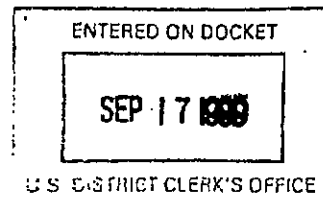
United States of America,  
Plaintiff,

v.

CIV. ACTION NO. 3:99-CV-0495-R

Prestonwood Properties, Inc.;  
Stillmeadow Property  
Management, Inc.;  
Ronald D. Hinds, individually  
and in his capacity as officer  
of Prestonwood;  
Leslie Hinds, individually and  
in his capacity as officer of  
Prestonwood; and  
Kevin Layne Hinds, also  
known as Kevin Layne:  
Hinds, individually and in his  
capacity as officer of  
Stillmeadow;

Defendants.



ORDER

Plaintiff United States has moved for a protective order to prevent certain questioning by Defendants' counsel during depositions. Upon consideration of the United States' Motion for Protective Order and Brief in Support, the opposition thereto, and argument of counsel, it is hereby

ORDERED that the United States' Motion be GRANTED as follows:

The United States brought this action pursuant to the Fair Housing Act, 42 U.S.C. §§ 3601-3619. The complaint seeks relief pursuant to 42 U.S.C. § 3612(o) for aggrieved person on whose behalf the Department of Housing and Urban Development (HUD) issued determinations of reasonable cause and charges of



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~~discrimination pursuant to 42 U.S.C. § 3610 (the HUD~~

complainants). It also seeks relief pursuant to 42 U.S.C. § 3614(d) for other aggrieved persons claimed to be victims of an alleged pattern or practice of housing discrimination.

#### I. COMMON INTEREST IN LITIGATION

The United States moves for a protective order barring inquiry into communications between counsel for the United States and the HUD complainants and other alleged aggrieved persons. The Court finds that there is a common interest in litigation privilege that protects communications between counsel for the United States and HUD complainants and other alleged aggrieved persons in matters such as this where the United States acts in its capacity to protect the interests of HUD complainants and the aggrieved persons to vindicate alleged violations of the Fair Housing Act. The burden is on the United States to establish that a particular communication is privileged. Whether meetings between counsel for the United States and aggrieved persons occurred and who was present at the meetings is not privileged; however, the substance and content of communications by aggrieved parties as well as the statements made by counsel for the United States are privileged.

#### II. MATTERS PROTECTED BY FEDERAL RULE OF EVIDENCE 412

The United States also moves for a protective order to prevent inquiry into whether a witness has undergone an abortion or miscarriage. Inquiries of this nature are limited by Fed. R. Evid. 412. Defendants may not ask questions about abortions or miscarriages. Defendants may not ask question about sexual

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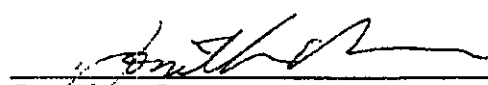
history without a prior ruling by the Court. The United States  
may interpose an objection based on Rule 412 where appropriate  
and seek a ruling from the Court. That line of questioning will  
cease pending order of the Court. The burden shall be on  
Defendants to establish the exception to Rule 412(b)(2).


DATE: SEPTEMBER 15, 1999


  
Jeff Kaplan  
United States Magistrate Judge

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Seen and agree to:

  
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U.S. DISTRICT COURT  
DISTRICT OF NEVADA  
OCT 21 2005  
ERK, U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

UNITED STATES OF AMERICA, Plaintiff,

Case No. CV-N-04-0292-LRH-RAM

– consolidated with –

Case No. CV-N-04-0397

v.

[proposed]

–ORDER–

SHARLANDS TERRACE LLC, et al., Defendants

SILVER STATE FAIR HOUSING  
COUNCIL, INC., et al., Plaintiffs,

v.

SHARLANDS TERRACE LLC, et al., Defendants.

Upon consideration of Plaintiff United States' Motion for Protective Order Permitting Entry Onto Property, it is ORDERED that the United States' Motion is GRANTED, and that Defendants shall permit the United States entry onto the property and shall not monitor or otherwise restrict the attorneys and agents of the United States from interviewing the tenants of the Sharlands Terrace Apartments, 6400 Sharlands Avenue, Reno, Nevada.

UNITED STATES DISTRICT COURT